

**LOCAL OPTION DISTRIBUTION FORMULA
FOR THE DISTRIBUTION OF THE LOCAL
OPTION SALES AND USE TAX**

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott L Wyatt

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the Local Sales and Use Tax Act to provide certain qualifying counties and municipalities options relating to the distribution of revenue from this local sales and use tax.

Highlighted Provisions:

This bill:

- ▶ establishes a procedure for a qualifying county, and a two-thirds majority of the municipalities within a qualifying county, or, for a qualifying county with less than seven municipalities within the county, all of the municipalities within the qualifying county, to agree to an alternate distribution formula for certain local option sales and use tax revenues within the incorporated and unincorporated area of the qualifying county;
- ▶ provides that an agreement must be approved by a majority vote of the voters in the incorporated and unincorporated area of the qualifying county;
- ▶ provides requirements relating to an election for a vote required by this bill;
- ▶ provides that if the incorporated and unincorporated areas of a qualifying county adopt an alternate distribution formula described in this bill, the revenue normally paid to each municipality and qualifying county:



- 28 • will be paid to the qualifying county; and
- 29 • will be distributed by the qualifying county in accordance with the adopted
- 30 alternate distribution formula;
- 31 ▶ establishes requirements for an alternate distribution formula and a written
- 32 agreement relating to the formula;
- 33 ▶ establishes requirements relating to the distribution of the local option sales and use
- 34 tax revenue under this bill;
- 35 ▶ provides that, notwithstanding an alternate distribution formula adopted under this
- 36 bill, a qualifying county or municipality to which the alternate distribution formula
- 37 applies may not receive less revenue than it received during the same month of the
- 38 year before the alternate distribution formula was adopted;
- 39 ▶ provides an exception to the preceding paragraph by requiring that if the total
- 40 distribution to the qualifying county and municipalities to which the alternate
- 41 distribution formula applies is less than the total distribution received during the
- 42 same month of the year before the alternate distribution formula was adopted, the
- 43 distribution to the qualifying county and each municipality within the qualifying
- 44 county will be proportionally reduced;
- 45 ▶ establishes a procedure for a qualifying county, and a two-thirds majority of the
- 46 municipalities within a qualifying county, or, for a qualifying county with less than
- 47 seven municipalities within the qualifying county, all of the municipalities within
- 48 the qualifying county, to reinstate the local option sales and use tax revenue
- 49 distribution formula that applies to counties and municipalities that have not
- 50 adopted an alternate distribution formula under this bill;
- 51 ▶ defines terms; and
- 52 ▶ makes technical changes.

53 **Monies Appropriated in this Bill:**

54 None

55 **Other Special Clauses:**

56 This bill takes effect on July 1, 2007.

57 **Utah Code Sections Affected:**

58 AMENDS:

59 **59-12-205**, as last amended by Chapters 222 and 253, Laws of Utah 2006

60 ENACTS:

61 **59-12-205.5**, Utah Code Annotated 1953



63 *Be it enacted by the Legislature of the state of Utah:*

64 Section 1. Section **59-12-205** is amended to read:

65 **59-12-205. Ordinance to conform with statutory amendments -- Distribution of**
66 **tax revenues -- Determination of population.**

67 (1) Each county, city, and town, in order to maintain in effect sales and use tax
68 ordinances adopted pursuant to Section 59-12-204, shall, within 30 days of any amendment of
69 any applicable provisions of Part 1, Tax Collection, adopt amendments of their respective sales
70 and use tax ordinances to conform with the amendments to Part 1, Tax Collection, insofar as
71 they relate to sales and use taxes.

72 (2) Except as provided in Subsections (3) through (5) and Section 59-12-205.5:

73 (a) 50% of each dollar collected from the sales and use tax authorized by this part shall
74 be paid to each county, city, and town on the basis of the percentage that the population of the
75 county, city, or town bears to the total population of all counties, cities, and towns in the state;
76 and

77 (b) 50% of each dollar collected from the sales and use tax authorized by this part shall
78 be paid to each county, city, and town on the basis of the location where the transaction is
79 consummated as determined under Section 59-12-207.

80 (3) (a) For fiscal years beginning with fiscal year 1983-84 and ending with fiscal year
81 2005-06, a county, city, or town may not receive a tax revenue distribution less than .75% of
82 the taxable sales within the boundaries of the county, city, or town.

83 (b) The commission shall proportionally reduce monthly distributions to any county,
84 city, or town that, but for the reduction, would receive a distribution in excess of 1% of the
85 sales and use tax revenue collected within the boundaries of the county, city, or town.

86 (4) (a) As used in this Subsection (4):

87 (i) "Eligible county, city, or town" means a county, city, or town that receives \$2,000 or
88 more in tax revenue distributions in accordance with Subsection (3) for each of the following
89 fiscal years:

90 (A) fiscal year 2002-03;

91 (B) fiscal year 2003-04; and

92 (C) fiscal year 2004-05.

93 (ii) "Minimum tax revenue distribution" means the total amount of tax revenue
94 distributions an eligible county, city, or town receives from a tax imposed in accordance with
95 this part for fiscal year 2004-05.

96 (b) (i) Notwithstanding Subsection (2) and except as provided in Subsection (4)(b)(ii),
97 beginning with fiscal year 2006-07 and ending with fiscal year 2012-13, an eligible county,
98 city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this
99 part equal to the greater of:

100 (A) the payment required by Subsection (2); or

101 (B) the minimum tax revenue distribution.

102 (ii) If the tax revenue distribution required by Subsection (4)(b)(i) for an eligible
103 county, city, or town is equal to the amount described in Subsection (4)(b)(i)(A) for three
104 consecutive fiscal years, for fiscal years beginning with the fiscal year immediately following
105 that three consecutive fiscal year period, the eligible county, city, or town shall receive the tax
106 revenue distribution equal to the payment required by Subsection (2).

107 (c) For a fiscal year beginning with fiscal year 2013-14 and ending with fiscal year
108 2015-16, an eligible county, city, or town shall receive the minimum tax revenue distribution
109 for that fiscal year if for fiscal year 2012-13 the payment required by Subsection (2) to that
110 eligible county, city, or town is less than or equal to the product of:

111 (i) the minimum tax revenue distribution; and

112 (ii) .90.

113 (5) Notwithstanding Subsection (2), if a county, city, or town imposes a tax authorized
114 by this part on any amounts paid or charged by a seller that collects a tax in accordance with
115 Subsection 59-12-107(1)(b), the revenues generated by the tax shall be distributed as provided
116 in Subsection 59-12-103(3)(c).

117 (6) (a) Population figures for purposes of this section shall be based on the most recent
118 official census or census estimate of the United States Census Bureau.

119 (b) If a needed population estimate is not available from the United States Census
120 Bureau, population figures shall be derived from the estimate from the Utah Population

121 Estimates Committee created by executive order of the governor.

122 (7) The population of a county for purposes of this section shall be determined solely
123 from the unincorporated area of the county.

124 Section 2. Section **59-12-205.5** is enacted to read:

125 **59-12-205.5. Alternate distribution formula for revenue from local option sales**
126 **and use tax -- Agreement on formula -- Elections -- Return to original distribution**
127 **formula.**

128 (1) As used in this section:

129 (a) "Alternate disbursal area" means the incorporated and unincorporated area of a
130 qualifying county that is designated as an alternate disbursal area by the commission under
131 Subsection (3).

132 (b) "Alternate distribution formula" means a formula for the division and distribution,
133 among a qualifying county and municipalities within a qualifying county, of the countywide
134 distribution, if that formula:

135 (i) is different than the formula required by Section 59-12-205;

136 (ii) subject to Subsection (1)(b)(iii), divides and distributes the countywide distribution
137 by distributing to each qualifying county and municipality within the qualifying county:

138 (A) a percentage of the revenues on the basis of the percentage that the population of
139 the unincorporated area of the qualifying county and the portion of each municipality that lies
140 within the qualifying county bears to the total population of the qualifying county; and

141 (B) a percentage of the revenues on the basis of the location where the transaction is
142 consummated as determined under Section 59-12-207;

143 (iii) is drafted so that the sum of the percentage described in Subsection (1)(b)(ii)(A)
144 and the percentage described in Subsection (1)(b)(ii)(B) is equal to 100%; and

145 (iv) is drafted so that the percentage described in Subsection (1)(b)(ii)(B) does not
146 exceed 50%.

147 (c) "Countywide distribution" means the revenue generated by a tax under this part,
148 that is required under Section 59-12-205 to be paid to a qualifying county, and to each
149 municipality within a qualifying county for the portion of the municipality that is within the
150 qualifying county.

151 (d) "Managing county" means the legislative body of a qualifying county that has been

152 designated as an alternate disbursal area under Subsection (3).

153 (e) "Municipality" is as defined in Section 10-1-104.

154 (f) "Predesignation year" means the one-year period immediately preceding the day on
155 which a particular alternate distribution formula is first in effect for a qualifying county.

156 (g) "Qualifying county" means a county of the third, fourth, fifth, or sixth class.

157 (2) Notwithstanding Subsection 59-12-205(2), if the commission designates a
158 qualifying county as an alternate disbursal area:

159 (a) the commission may not make the distributions required by Section 59-12-205
160 directly to a municipality; and

161 (b) shall pay the countywide distribution to the managing qualifying county.

162 (3) A qualifying county shall be designated as an alternate disbursal area by the
163 commission on the first day of the first calendar month after a 90-day period beginning on the
164 day on which the commission receives written notice from the qualifying county that an
165 alternate distribution formula is approved under Subsection (3)(b), if:

166 (a) subject to Subsections (4) and (5):

167 (i) for a qualifying county with seven or more municipalities that are, in whole or in
168 part, within the qualifying county, the county legislative body and a two-thirds majority of the
169 municipalities that are, in whole or in part, within that qualifying county agree, in writing, to an
170 alternate distribution formula; or

171 (ii) for a qualifying county with less than seven municipalities that are, in whole or in
172 part, within the qualifying county, the county legislative body and each municipality that is, in
173 whole or in part, within that qualifying county agree, in writing, to an alternate distribution
174 formula; and

175 (b) in accordance with Subsection (8), after the agreement described in Subsection
176 (3)(a) is reached, the alternate distribution formula is approved by a majority vote of the legal
177 voters residing in the incorporated and unincorporated areas of the qualifying county.

178 (4) The legislative body of a municipality shall determine whether a municipality
179 agrees to an alternate distribution formula.

180 (5) The agreement described in Subsection (3)(a) shall require that the entire
181 countywide distribution be distributed by the managing county to the qualifying county and the
182 municipalities within the qualifying county:

183 (a) except as provided in Subsection (7), in accordance with the alternate distribution
184 formula described in Subsection (3)(a); and

185 (b) within a time period, specified in the agreement, that may not exceed 30 days after
186 the day on which the countywide distribution is paid to the managing county by the
187 commission.

188 (6) The managing county of an alternate disbursal area:

189 (a) shall receive the countywide distribution from the commission;

190 (b) except as provided in Subsection (7), shall distribute the countywide distribution to
191 the qualifying county and each municipality within the qualifying county in accordance with
192 the agreement described in Subsection (3)(a);

193 (c) may not withhold any amount of the countywide distribution that is due to the
194 qualifying county or a municipality under the agreement described in Subsection (3)(a) for any
195 reason; and

196 (d) may not pay any portion of the countywide distribution to any person other than the
197 qualifying county or a municipality within the qualifying county.

198 (7) (a) Except as provided in Subsection (7)(c), if, for any month of the current year,
199 the portion of the countywide distribution required to be distributed to a qualifying county or
200 municipality within the qualifying county under the alternate distribution formula is less than
201 the amount received under this part by the qualifying county, or by the municipality for the
202 portion of the municipality that is within the qualifying county, for the same month of the
203 predesignation year, the managing qualifying county shall increase the distribution to the
204 qualifying county or municipality by the difference between:

205 (i) the amount required to be paid to the qualifying county or municipality under the
206 alternate distribution formula; and

207 (ii) the amount received under this part by the qualifying county, or by the municipality
208 for the portion of the municipality that is within the qualifying county, for the same month of
209 the predesignation year.

210 (b) If the distribution to a qualifying county or a municipality within the qualifying
211 county is increased under Subsection (7)(a), the distribution to a qualifying county that is not
212 increased under Subsection (7)(a), and the distribution to each municipality within the
213 qualifying county that is not increased under Subsection (7)(a), shall be proportionally reduced

214 to offset the sum of the increases made under Subsection (7)(a) for each qualifying county and
215 municipality within the qualifying county.

216 (c) If the countywide distribution for any month of the current year is less than the
217 countywide distribution for the same month of the predesignation year, the managing county
218 shall distribute to the qualifying county, and each municipality within the qualifying county,
219 the amount received by the qualifying county, or by the municipality for the portion of the
220 municipality within the qualifying county, for the same month of the predesignation year,
221 proportionally reduced to offset the difference between:

- 222 (i) the countywide distribution for the month of the current year; and
- 223 (ii) the countywide distribution for the same month of the predesignation year.

224 (8) The election required by Subsection (3)(b):

225 (a) may be held:

- 226 (i) on the day of a regular general election, described in Section 20A-1-201; or
- 227 (ii) on the day of a municipal general election, described in Section 20A-1-202;

228 (b) shall be conducted in accordance with Title 20A, Election Code; and

229 (c) shall be conducted with a ballot that includes:

- 230 (i) a printed number and ballot title;
- 231 (ii) a description of:

232 (A) the formula that is used within the qualifying county, at the time of the election, for
233 the division and distribution of revenue from the sales and use tax authorized by this part
234 among the qualifying county and municipalities, or portions of municipalities, that are within
235 the qualifying county; and

236 (B) the alternate distribution formula that is proposed on the ballot;

237 (iii) a question asking voters to indicate whether the proposed alternate distribution
238 formula should be approved; and

239 (iv) the words "YES" and "NO", each followed by a square which the voter may select
240 or mark to indicate the voter's vote.

241 (9) Subject to Subsection (10), the commission shall remove a qualifying county's
242 designation as an alternate disbursal area if:

243 (a) subject to Subsection (11):

244 (i) for a qualifying county with seven or more municipalities that are, in whole or in

245 part, within the qualifying county, the county legislative body and a two-thirds majority of the
246 municipalities that are, in whole or in part, within that qualifying county, agree, in writing, to
247 remove the designation as an alternate disbursal area; or

248 (ii) for a qualifying county with less than seven municipalities that are, in whole or in
249 part, within the qualifying county, the county legislative body and each municipality that is, in
250 whole or in part, within that qualifying county agree, in writing, to remove the designation as
251 an alternate disbursal area; and

252 (b) in accordance with Subsection (12), after the agreement described in Subsection
253 (9)(a) is reached, adoption of the distribution formula described in Section 59-12-205 is
254 approved by a majority vote of the legal voters residing in the incorporated and unincorporated
255 areas of the qualifying county.

256 (10) (a) The commission shall remove a qualifying county's designation as an alternate
257 disbursal area on the first day of the first calendar month after a 90-day period beginning on the
258 day on which the commission receives written notice from the qualifying county that the
259 distribution formula has been approved under Subsection (9)(b).

260 (b) Beginning on the day that the commission removes a qualifying county's
261 designation as an alternate disbursal area under Subsection (10)(a), the commission shall
262 distribute revenue generated by the sales and use tax authorized by this part to the qualifying
263 county and each municipality within the qualifying county as required by Section 59-12-205.

264 (11) The legislative body of a municipality shall determine whether a municipality
265 agrees to removal of the designation as an alternate disbursal area under Subsection (9)(a).

266 (12) The election, described in Subsection (9)(b):

267 (a) may be held:

268 (i) on the day of a regular general election, described in Section 20A-1-201; or

269 (ii) on the day of a municipal general election, described in Section 20A-1-202;

270 (b) shall be conducted in accordance with Title 20A, Election Code; and

271 (c) shall be conducted with a ballot that includes:

272 (i) a printed number and ballot title;

273 (ii) a description of:

274 (A) the formula that is used within the qualifying county, at the time of the election, for
275 the division and distribution of revenue from the sales and use tax authorized by this part

276 among the qualifying county and municipalities, or portions of municipalities, that are within
277 the qualifying county; and

278 (B) the distribution formula described in Section 59-12-205;

279 (iii) a question asking voters to indicate whether the distribution formula described in
280 Section 59-12-205 should be approved; and

281 (iv) the words "YES" and "NO", each followed by a square which the voter may select
282 or mark to indicate the voter's vote.

283 (13) An alternate disbursal area may change from one alternate distribution formula to
284 another alternate distribution formula by complying with the procedures in Subsection (3).

285 Section 3. **Effective date.**

286 This bill takes effect on July 1, 2007.

Legislative Review Note
as of 11-16-06 8:20 AM

Office of Legislative Research and General Counsel

Fiscal Note**H.B. 203 - Local Option Distribution Formula for the Distribution of the Local
Option Sales and Use Tax**

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill will have no net fiscal impact. There is a potential shift in revenues at the local level depending on the distribution formula the countywide voters establish.

1/10/2007, 11:14:47 AM, Lead Analyst: Wilko, A.

Office of the Legislative Fiscal Analyst